

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Correction Slip

The 28th November, 2022

No. 84 Rules/II.D.4**Dated 21-11-2022**

Pursuant to the directions given by Hon'ble Supreme Court of India in Civil Appeal Nos. 1659-1600 of 2021 titled as "Rahul S. Shah vs. Jinendra Gandhi", the following amendments/insertions/substitutions are made in the **Rules and Orders of Punjab and Haryana High Court, Volume-I:-**

(I) The following words are inserted at the end of existing Rule 5, Part F, Chapter 1:-

"However, in suits relating to delivery of possession of property, the Court must examine the parties in relation to third party interest in such property."

(II) The following words are inserted at the end of sub-rule (ii) of Rule 12, Part F, Chapter 1:-

"In suits relating to delivery of possession of property, the Court must ask the parties to disclose and produce documents, upon Oath, which are in possession of the parties including declaration pertaining to third party interest in such properties."

(III) The existing Rule 3 of Part-A, Chapter 10 is re-numbered as Rule 3 (i) and after Rule 3 (i) a new sub-rule (ii) is inserted as under:-

"(ii) In suits relating to delivery of possession of property, where the possession over the property is not disputed by the parties and if the Court deems it appropriate, it may appoint a Commissioner to assess the accurate description and status of the property."

(IV) The following words are inserted at the end of clause (vi) of sub-rule (a) of Rule 3, Part C, Chapter 1:-

"Upon examination of parties under Order X or upon production of documents under Order XI or on the receipt of report of Local Commissioner, the Court may add all necessary or proper parties to the suit, so as to avoid multiplicity of proceedings and also make such joinder of cause of action in the same suit."

(V) The heading of sub-part (a) of Part-L, Chapter 1, is substituted as under:-

"(a) Attachment before judgment, temporary injunctions and appointment of receiver etc."

(VI) In sub-part (a) of Part-L, Chapter 1, after Rule 4 the following Rule 5 is inserted:-

"5. Appointment of Receiver:- Under Order XL Rule 1 of CPC the Court may appoint receiver to monitor the status of the property in question as custodia legis (in the custody of law) for proper adjudication of the matter specifying as to whether receiver shall take actual physical or symbolic possession thereof."

(VII) The following para is inserted at the end of Rule 1, Part B, Chapter 11:-

"In suits relating to delivery of possession of a property, before passing the decree, the Court must ensure that the decree is unambiguous so as to not only contain clear description of the property, but also having regard to the status of the property."

(VIII) The following words are inserted at the end of Rule 1, Part E, Chapter 12:-

"In the case of money suit, the Court must for reasons to be recorded, invariably resort to Order XXI Rule 11 of CPC ensuring immediate execution of decree for payment of money on oral application."

(IX) The following words are inserted at the end of Rule 4, Part F, Chapter 1:-

"In a suit for payment of money, before settlement of issues the Court may require the defendant to disclose his assets on Oath, to the extent the defendant is made liable in the suit. Further in the event of disclosure of assets by the defendant, the Court while exercising powers under Section 151 C.P.C. may also direct the revenue or municipal authorities or the Registrar appointed under the Registration Act to make an entry in the record to the effect that alienation, if any of such property shall be subject to the decision of the pending suit."

(X) Rule 6 is inserted after Rule 5 in sub-part (a) of Part-L, Chapter-1, as under:-

"6. Ensuring satisfaction of decree:- In a suit for payment of money, the Court may in appropriate cases at any stage of the suit demand security for the defendant to ensure satisfaction of decree exercising the powers under Section 151 CPC."

(XI) **The following words are inserted at the end of Rule 4, Part C, Chapter 12:-**

“If a third party claim(s) rights(s) in the property subject matter of decree under execution by filing an application under Section 47 or Order XXI of the Code of Civil Procedure, 1908 and the Court is of the opinion that the application is frivolous, it shall record reasons while declining to issue notice thereof. The Court should also refrain from entertaining such applications(s) that has already been considered by the Court while adjudicating the suit or which raises any such issue which otherwise could have been raised and determined during adjudication of suit if due diligence was exercised by the applicant.

The Court should allow taking of evidence during the execution proceedings only in exceptional and rare cases where the question of fact could not be decided by resorting to any other expeditious method like appointment of Commissioner or calling for electronic materials including photographs or video with affidavits.

The Court should in appropriate cases where it finds the objection or resistance or claim to be frivolous or mala fide, resort to sub-rule (2) of Rule 98 of Order XXI as well as grant compensatory costs in accordance with Section 35A.”

(XII) **Rule 8 is inserted after Rule 7, Part-A, Chapter 12 as Under:-**

“8. Expeditious disposal of Execution:- The Executing Court must make efforts to dispose of the Execution Proceedings within six months from the date of filing, which may be extended only by recording reasons in writing for such delay. The Court may on the request of either of the parties to the suit or of its own, in appropriate cases at the time of passing the decree, for reasons to be recorded in writing fix a date for commencement of execution proceedings, register it as an execution petition and direct the parties to appear on the said date and permit the decree holder to file the formal application in the meantime.”

(XIII) **Rule 4 is inserted after Rule 3, Part-Q, Chapter 12 as under:-**

“4. Direction for execution of decree with police help:- Where the Executing Court is satisfied that it is not possible to execute the decree, warrant of arrest and/or distress without police assistance, it may direct the concerned Police Station to provide police assistance to such officials who are working towards execution of the decree. Further, in case an offence against the public servant while discharging his duties is brought to the knowledge of the Court, the same must be dealt with stringently in accordance with law.”

BY ORDER OF HON'BLE THE CHIEF JUSTICE AND JUDGES.

ARUN KUMAR AGGARWAL,
Registrar (Rules),
for Registrar General.